

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC# 5/28/08
DATE FILED: 5/28/08

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x

SUSAN G. PITTS, individually and on behalf of all others :
similarly situated,

Plaintiff, : 08 Civ. 1280 (CM) (AJP)

-against- : **ORDER OF DISMISSAL**

NEW YORK CITY TAXI AND LIMOUSINE :
COMMISSION; CITY OF NEW YORK, TAXI :
WORKERS ALLIANCE; VERIFONE, INC.; :
VERIFONE TRANSPORTATION SYSTEMS, INC. :
d/b/a TAXITRONIC; MOBILE KNOWLEDGE :
CORPORATION d/b/a CREATIVE MOBILE :
TECHNOLOGIES, LLC; DIGITAL DISPATCH, LTD.; :
TAXI TECHNOLOGY CORP.; CITY OF :
NEW YORK,

Defendants. :

----- x

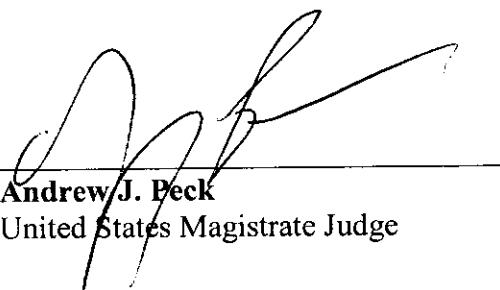
ANDREW J. PECK, United States Magistrate Judge:

Plaintiff has previously dismissed its claims against all defendants except defendant Mobile Knowledge Corporation d/b/a Creative Mobile Technologies, LLC ("Mobile Knowledge"), which has not been served. Plaintiff consents to dismissing the action without prejudice against Mobile Knowledge (see attached).

Accordingly, plaintiff's claims against remaining defendant Mobile Knowledge are dismissed without prejudice and without costs. The Clerk of Court is directed to close this action.

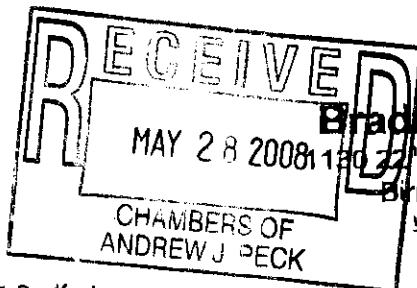
SO ORDERED.

Dated: New York, New York
May 28, 2008



Andrew J. Peck
United States Magistrate Judge

Copies by fax & ECF to: James R. Pitts, Jr.
Jeffrey A. Manheimer, Esq.
Judge Colleen McMahon



Bradford Pitts, L.L.C.
 771 27th Street South, Suite 4500
 Birmingham, AL 35205
www.SouthLawLLC.com

William K. Bradford
 J. Randall Pitts, Jr.
 Daniel L.G. Pitts

(205) 839-4300
 (205) 877-7330

May 27, 2008

Via Facsimile and U.S. Mail

Honorable Andrew J. Peck
 Daniel Patrick Moynihan
 United States Courthouse
 500 Pearl St., Room 1370
 New York, NY 10007

*RE: 58 Vine Street Partnership Property damage 08-1280
 File #: 400-009*

Dear Judge Peck:

I wanted to give you an update on the status of the presently pending amendment to the 2003 amendments to the Fair Credit Reporting Act. At present, a bill, the Credit and Debit Card Receipt Clarification Act of 2007, has passed both the House (H.R. 4008) and Senate (S. 2978). My understanding is that this bill is currently before President Bush, and is due to be signed. The effect of this bill will be to retroactively amend expiration date only cases. As such, in the interests of judicial efficiency, I would suggest that we be allowed to dismiss our claim without prejudice. If the bill is not signed into law, the plaintiff would be able to refile this action. 

I have taken the liberty of preparing an order to this effect. I have also enclosed a copy of the joint bill for your review. Please feel free to contact me if I can provide any additional information about the status or impact of this pending legislation. Thank you for your consideration.

Very truly yours,



J. Randall Pitts, Jr.

JRP/amp
 Enclosure
 cc: Jeffrey Manheimer, Esq.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SUSAN G. PITTS, et al.

Plaintiff.

-against-

**ORDER FOR DISMISSAL
ON WRITTEN MOTION**

cv-08-01280

NEW YORK CITY TAXI AND LIMOSINE
COMMISSION, CITY OF NEW YORK,
VERIFONE INC., MOBILE
KNOWLEDGE CORP., TAXI TECHNOLOGY
CORP. and DIGITAL DISPATCH, INC..

Defendant

→

Upon the motion of JEFFREY A. MANHEIMER, ESQ. and J. RANDALL PITTS, JR.,
attorneys for Susan G. Pitts, et al.:

IT IS HEREBY ORDERED that this case is hereby dismissed without prejudice.

Dated: May , 2008

New York, NY

United States District/Magistrate Judge

for

OFFICE USE ONLY: FEE PAID \$

SDNY RECEIPT #

--H.R.4008--

H.R.4008

One Hundred Tenth Congress

of the

United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Thursday,
the third day of January, two thousand and eight

An Act

To amend the Fair Credit Reporting Act to make technical corrections to the definition of willful noncompliance with respect to violations involving the printing of an expiration date on certain credit and debit card receipts before the date of the enactment of this Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Credit and Debit Card Receipt Clarification Act of 2007'.

SEC. 2. FINDINGS; PURPOSE.

(a) Findings- The Congress finds as follows:

(1) The Fair and Accurate Credit Transactions Act (commonly referred to as 'FACTA') was enacted into law in 2003 and 1 of the purposes of such Act is to prevent criminals from obtaining access to consumers' private financial and credit information in order to reduce identity theft and credit card fraud.

(2) As part of that law, the Congress enacted a requirement, through an amendment to the Fair Credit Reporting Act, that no person that accepts credit cards or debit cards for the transaction of business shall print more than the last 5 digits of the card number or the expiration date upon any receipt provided to the card holder at the point of the sale or transaction.

(3) Many merchants understood that this requirement would be satisfied by truncating the account number down to the last 5 digits based in part

on the language of the provision as well as the publicity in the aftermath of the passage of the law.

(4) Almost immediately after the deadline for compliance passed, hundreds of lawsuits were filed alleging that the failure to remove the expiration date was a willful violation of the Fair Credit Reporting Act even where the account number was properly truncated.

(5) None of these lawsuits contained an allegation of harm to any consumer's identity.

(6) Experts in the field agree that proper truncation of the card number, by itself as required by the amendment made by the Fair and Accurate Credit Transactions Act, regardless of the inclusion of the expiration date, prevents a potential fraudster from perpetrating identity theft or credit card fraud.

(7) Despite repeatedly being denied class certification, the continued appealing and filing of these lawsuits represents a significant burden on the hundreds of companies that have been sued and could well raise prices to consumers without corresponding consumer protection benefit.

(b) Purpose- The purpose of this Act is to ensure that consumers suffering from any actual harm to their credit or identity are protected while simultaneously limiting abusive lawsuits that do not protect consumers but only result in increased cost to business and potentially increased prices to consumers.

SEC. 3. CLARIFICATION OF WILLFUL NONCOMPLIANCE FOR ACTIONS BEFORE THE DATE OF THE ENACTMENT OF THIS ACT.

(a) In General- Section 616 of the Fair Credit Reporting Act (15 U.S.C. 1681n) is amended by adding at the end the following new subsection:

'(d) Clarification of Willful Noncompliance- For the purposes of this section, any person who printed an expiration date on any receipt provided to a consumer cardholder at a point of sale or transaction between December 4, 2004, and the date of the enactment of this subsection but otherwise complied with the requirements of section 605(g) for such receipt shall not be in willful noncompliance with section 605(g) by reason of printing such expiration date on the receipt.'

(b) Scope of Application- The amendment made by subsection (a) shall apply to any action, other than an action which has become final, that is brought for a violation of 605(g) of the Fair Credit Reporting Act to which such amendment applies without regard to whether such action is brought before or after the date of the enactment of this Act.

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.

END

[THOMAS Home](#) | [Contact](#) | [Accessibility](#) | [Legal](#) | [USA.gov](#)